

# YOUTH SERVICES POLICY

<b>Title:</b> Employee Grievance Procedure <b>Next Annual Review Date:</b> 05/29/2010	<b>Type:</b> A. Administrative <b>Sub Type:</b> 2. Personnel <b>Number:</b> A.2.46
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<b>References:</b> ACA Standards 2-CO-1C-01, 2-CO-1C-02 (Administration of Correctional Agencies); 4-JCF-60-01 (Performance-based Standards for Juvenile Correctional Facilities); YS Policy No. A.2.1 "Employee Manual"; CJCA Performance-based Standards JEP5, JEP7, JEP9, JEP11, JP5, JP7, JP10.	
<b>STATUS: Approved</b>	
<b>Approved By:</b> <i>Mary L. Livers, MSW, Ph.D.</i> <i>Deputy Secretary</i>	<b>Date of Approval:</b> 05/29/2009

## I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405 Civil Service Rule 3.1 (m); and the Louisiana Department of State Civil Service Human Resources Handbook. Deviations from this policy must be approved by the Deputy Secretary.

## II. PURPOSE:

To establish a formal and uniform procedure at the unit level to address certain employee concerns and issues not appealable to the Director of Civil Service or to the Civil Service Commission.

## III. APPLICABILITY:

All current Youth Services (YS) employees. Each Unit Head shall ensure that appropriate procedures are in place to comply with the provisions of this policy.

## IV. DEFINITIONS:

**Business Days** - Monday through Friday.

**Calendar Days** - Consecutive days including weekends and holidays.

**Confidential Information** - Information that is deemed confidential either by statute, court decision, or Civil Service Rule. Information that can remain confidential includes that information for which an employee has a reasonable expectation of privacy.

***EEOC-Equal Employment Opportunity Commission*** - The Equal Employment Opportunity Commission (EEOC) is the federal regulatory body for EEO related complaints and charges. EEOC has jurisdiction of the prohibitions against employment discrimination codified in Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Sections 501 and 505 of the Rehabilitation Act of 1973, Titles I and V of the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991. These laws prohibit discrimination based on race, color, sex, religion, national origin, age and disability.

***Grievance*** - A grievance is an official, internal agency procedure used to resolve employee complaints and other personnel actions that are not appealable to the Civil Service Director or to the Civil Service Commission or are complaints or charges which should be filed under EEOC.

***Harassment*** - The courts have recognized two types:

1. ***Hostile work environment Harassment*** - Pervasive and/or unwelcomed verbal or physical harassment.
2. ***Sexual Harassment*** - Sexual harassment constitutes discrimination and is illegal under federal, state, and local laws. For the purpose of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature

***Unit Head*** - Deputy Secretary, Undersecretary, Assistant Secretary, Deputy Assistant Secretaries, Facility Directors, and Regional Managers.

## V. **POLICY:**

It is the Deputy Secretary's policy to ensure uniform application of employee grievance procedures and to ensure the fair and impartial treatment of employees.

## VI. **GENERAL PROVISIONS:**

A "grievance procedure" is a method of determining the specific cause for a grievance, assessing the situation, and finding the best way to resolve the grievance. The procedure is intended for use when a dissatisfaction that cannot be resolved by less formal means arises in a day-to-day relationship between employees or between an employee and their employer.

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Employee problems should be resolved at the lowest possible supervisory level and at the earliest opportunity. The Employee Grievance Procedure is an official, internal agency procedure used to resolve work related employee issues and other personnel issues that cannot be settled by informal means and that are not appealable to the Director of Civil Service, the Civil Service Commission or the EEOC [see Attachment A.2.46 (a) "Choosing the Right Process"]. The grievance procedure is handled entirely within Youth Services and is decided, in a final manner, by the Deputy Secretary or designee.

Employees of the Youth Services are encouraged to make use of the agency's grievance procedure when informal efforts to resolve differences do not suffice; however, nothing contained herein should be construed as denying employees the right to grieve non-disciplinary actions to the Louisiana Civil Service Commission, or any other outside entity from which relief may be requested directly.

All grievances shall be filed using the attached Employee Grievance Form [Attachment A.2.46 (b)]. The grievance forms shall be kept in the local HR Office and shall be accessible on-line under the OJJ forms and as an attachment to this policy in the policy database. Grievances concerning sexual harassment shall be handled in accordance with policy number A.2.8 "Sexual Harassment." Performance, Planning and Review complaints or appeals shall be addressed through procedures outlined in the Performance, Planning and Review section of the Employee Manual.

The procedure outlined in this policy is a method of determining the specific cause for a grievance and finding the best resolution. This procedure applies only to current Youth Services employees. An employee who files a grievance as well as the party he/she filed the grievance against shall have no right to legal representation. The person against whom the grievance complaint is made shall have the right to give a statement.

Retaliation against an employee who files a grievance is strictly prohibited.

No employee may use their position to coerce, attempt to coerce, or influence in any inappropriate manner any hearing officer, member of a grievance committee or other person involved in the grievance process. Any employee who uses their official position in such a manner shall be subject to disciplinary action.

Information concerning an employee grievance shall be confidential.

**VII. ISSUES NOT APPROPRIATE FOR EMPLOYEE GRIEVANCE PROCESS:**

- A. Grievances arising from allegations of sexual harassment must be processed in accordance with YS Policy No. A.2.8 "Sexual Harassment."
- B. Performance Planning and Review complaints or appeals shall be addressed through procedures outlined in YS Policy No. A.2.45 "Performance Planning and Review." PPR complaints go to Civil Service as appeals and are not regarded as grievances.
- C. Complaints or charges alleging discrimination based on race, color, sex, religion, national origin, age and disability shall be filed with the Equal Employment Opportunity Commission (EEOC), the federal regulatory body for EEO related complaints and charges.
- D. Appeals of letters of warning, reprimand, or counseling shall not be handled through the grievance procedure. Employees in receipt of such performance letters shall be given the opportunity to respond in writing. A copy of their response must be attached to a copy of the letter maintained by OJJ.

Human Resources shall be responsible for determining whether an issue should be processed through the employee grievance procedure , a Civil Service appeal, or EEOC.

**VIII. GENERAL RESPONSIBILITIES OF APPOINTING AUTHORITY:**

- A. Upon receipt of a grievance, the appointing authority or designee is responsible for immediately providing a copy of the "Employee Grievance Form" [Attachment A.2.46 (b)] to both the Central Office Human Resources Office and the unit's Human Resources Office.
- B. The appointing authority may designate a hearing officer or a grievance committee to hear a grievance.
  - 1. If a hearing is deemed necessary, the employee shall be given at least five calendar days advance notice of the hearing. The time and place must be specified and the hearing is to occur during regular business hours at a place accessible to the grievant.
  - 2. YS shall have the right to collect evidence in a manner that is least disruptive to agency operations and most cost-effective.

**IX. DISMISSAL OF GRIEVANCE:**

A written response by the appointing authority as to why the grievance will not be heard shall be submitted to the grievant within the time limits outlined below. Grievants shall be notified in writing if their complaint is not a “grievance” under this policy.

At any time after a written grievance is filed, the appointing authority may dismiss it on the basis of any of the following:

- A. The action is appealable to the Director of Civil Service or to the Civil Service Commission.
- B. The grievant does not work for the agency.
- C. The person against whom the grievance is filed does not work for the agency.
- D. The grievance has not been submitted in the required manner or within the prescribed time period.
- E. A decision on the grievance would be ineffective or moot.
- F. The remedy requested cannot be granted.
- G. The appointing authority has determined the grievance to be frivolous.
- H. The grievance is being used to impede the efficient operation of the agency.
- I. The grievant did not appear for the grievance hearing.

When an appointing authority dismisses a grievance, the grievant, the unit’s Human Resources Office, Central Office Human Resources, and any supervisor or Unit Head who received the grievance shall be notified in writing.

**X. STEPS IN THE GRIEVANCE PROCEDURE:**

**A. Step One**

- 1. Using the Employee Grievance Form {Attachment A.2.46(b)}, the employee shall present their grievance to their immediate supervisor within fourteen (14) calendar days from the date the

employee first became aware of, or should have become aware of, the cause of such grievance.

2. If a supervisor is confronted with a situation that is outside their supervisory scope and above their supervisory chain of command, the grievance shall be forwarded to the supervisory level adequate to deal with the content of the grievance.
3. The supervisor shall meet with the employee to discuss the grievance.
4. The supervisor shall provide a written response to the grievance by completing Step One of the Employee Grievance Form and furnishing a copy to the employee and Central Office Human Resources within seven (7) calendar days following the receipt of the grievance.

**B. Step Two**

1. If the employee is not satisfied with the outcome of the Step One Decision, or if a response is not provided within the prescribed time limit, the employee shall submit their written grievance by completing the Step Two Unit Head/Designee portion of the Employee Grievance Form and submit it to the Unit Head or their designee. This shall occur:
  - a. Within seven (7) calendar days following the date the employee received the supervisor's Step One response; or
  - b. Within seven (7) calendar days following the date the supervisor's Step One response was due, if the supervisor fails to respond within the prescribed time limit.
2. The Unit Head or designee shall schedule a hearing. With the consent of both parties, the time limitation required for the hearing may be waived or extended. The Unit Head or designee shall have the authority to reschedule or continue a grievance hearing. The employee must be present at the hearing.
2. The Unit Head or designee shall complete the Step Two Unit Head/Designee portion of the Employee Grievance form and provide a written response to the employee within fourteen (14) calendar days after receipt of the grievance. Additionally, a copy of the completed Step Two Employee Grievance Form shall be

provided to Central Office Human Resources and all parties involved in Step Two of the grievance procedure.

**C. Step Three**

1. If the employee is not satisfied with the outcome of the Step Two Decision or if a response is not provided within the prescribed time limit, the employee shall submit their written grievance by completing the Step Three: Deputy Secretary/Designee portion of the Employee Grievance. This shall occur:
  - a. Within seven (7) calendar days following the date the employee received the Unit Head's Step Two response; or
  - b. Within seven (7) calendar days following the date the Unit Head's Step Two response was due, if the Unit Head/designee fails to respond within the prescribed time limit.
2. The Step Three grievance shall include copies of Step One and Step Two decisions.  
The employee shall also submit a copy of his Step Three grievance request to his Unit Head so that the Unit Head will know the status of the grievance.
3. The Deputy Secretary or designee shall conduct a hearing, an investigation, if deemed appropriate, OR a review of the first and second step responses. When deemed appropriate, the Deputy Secretary or designee shall convene a hearing and provide the employee with at least three business days advance notice of the hearing. The employee shall attend the hearing.
4. The Deputy Secretary or designee shall complete the Step Three Deputy Secretary/Designee portion of the Employee Grievance form and provide a written decision to the employee within fourteen (14) calendar days following receipt of the grievance. Additionally, a copy of the completed Step Three Employee Grievance Form shall be provided to Central Office Human Resources and all parties involved in Step Three of the grievance procedure.

**XI. RESPONSIBILITIES OF HUMAN RESOURCES:**

- A. Both Central Office Human Resources and the unit's Human Resources Office shall be responsible for maintaining grievance records. All records

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and documents related to grievances shall be filed in accordance with YS Policy No. A.2.12 "Personnel Records."

- B. The Central Office Human Resources Office shall track the number and nature of grievances through the ISIS HR system under the grievance info-type to help define and address internal concerns and issues.
- C. The Central Office Human Resources Office is responsible for compiling employee grievance statistics for submission to the Quarterly Statistical Performance Report process.
- D. The Central Office and unit Human Resources Offices shall provide training and support to Unit Heads and supervisors upon request.
- E. Central Office Human Resources shall analyze grievances and report notable trends to the Deputy Secretary.

Questions regarding grievances shall be directed to the Central Office Human Resources Office.

**Previous Regulation/Policy Number:** A.2.1 (This policy replaces the Employee Grievance Procedure section of YS Policy No. A.2.1 "Employee Manual".)

**Previous Effective Date:** N/A



**Attachments/References:** A.2.46 (a) CHOOSING THE RIGHT PROCESS May 2009.doc



A.2.46 (b) Employee Grievance Form May 2009.doc